

**DECISION REPORT FOR LAND USE CONSENT RM250267
PURSUANT TO THE RESOURCE MANAGEMENT ACT 1991 ('THE ACT')**

1 DESCRIPTION OF PROPOSAL

Taupō District Council (Parks and Reserves Department) is seeking land use consent to remove Amenity Tree # 24 being a Red Oak (*Quercus rubra*) tree located within the road reserve adjoining the property at 43 Taupahi Road, Turangi. The proposal includes replacement of the amenity tree with a large, good-quality specimen of the same species in the same location. The consent sought is part retrospective as substantial parts of the tree have already been removed prior to submission of the consent application.

Section 3.2 of the consent application explains the background circumstances which are summarised as follows.

In January 2017 Taupō District Council (TDC) granted land use consent RM160403 which authorises on-going maintenance and remedial works on various protected trees in Taupō District, including Amenity Tree #24. In reliance of that consent, TDC Parks and Reserves Department arranged for pruning of the tree to reduce encroachment into a neighbouring property.

The contractor then undertook work to remove (rather than prune) the tree. Before ceasing the work, the entire branch system of the tree had been removed with only the central-most stem and bole (the section of the trunk from the base of the tree to the first major branches) remaining, consistent with the usual method of dismantling the tree.



Prior to tree works (Feb 2024)



Following tree works (22 Nov 2024)

Figure 1: Amenity Tree Before and After Photos

The consent application confirms that a formal investigation was undertaken to determine how the result came about but no details are provided in the application as to the outcome.

2 SITE DESCRIPTION

The subject site is the road reserve adjoining the residential property located at 43 Taupahi Road, Turangi. The tree is located on the grass verge between the footpath and 43 Taupahi Road. Taupahi Road is a local road located on the south side of State Highway 1 and the north side of the Tongariro River. The surrounding area is characterised by residential properties.

Amenity tree # 24 is one of a line of amenity trees that run along the south side of Taupahi Road to approximately 160 m south of the Taupahi / Tongariro Road intersection.



Figure 2: Site and Surrounding Area (amenity tree noted by red x)

3 TAUPŌ DISTRICT PLAN

3.1 Zoning / Overlays / Definitions

Amenity tree # 24 is listed in schedule 9.2 of the Taupō District Plan. Under section 9.2 of the Taupō District Plan the following explanation of an amenity tree is provided.

'There are other trees in the District that may not reach the threshold required for listing as notable trees, however provide important amenity and botanical contributions. Additionally, they develop to become notable trees in the future, and their protection will assist to sustain and develop the District's tree resource. In order to recognise the contribution provided by these trees, a second category of protection called amenity trees has been created.'

Additionally, the following definition of amenity tree is provided in the Taupō District Plan:

'A tree or group of trees that is considered significant, listed in the Schedule of Amenity Trees and identified on planning maps. An amenity tree or group shall achieve a STEM Criteria score of 110 points or more.'

On either side of Taupahi Road properties are located within the General Residential Zone as identified on TDC's interactive e-District Plan mapping tool. Taupahi Road is classified as a Local Road under the District Plan Road Hierarchy and parts of the road are identified as Flood Hazard Area (1% AEP) - Low.

3.2 District Plan Standards / Rules

The proposal infringes the following rule in the Taupō District Plan.

Table 1: District Plan rules triggered.

AMENITY TREE RULES (Section 9.2 Rule NT-R2)		
Rule	Requirement	Proposal
Rule NT-R2.3 Discretionary Activity	The removal or any other alteration, pruning or works to an amenity tree	Alteration to the amenity tree has already occurred and the proposal is to remove the remainder of the tree, therefore this rule is applicable.

Overall, the application must be assessed as a **discretionary activity** under Rule NT-R2.3.

4 SECTION 95 NOTIFICATION SUMMARY

A decision on notification was made pursuant to Section 95 of the Act and pursuant to Section 95D, it was determined that the effects of the proposal were more than minor and as such public notification was required pursuant to section 95A.

The application was publicly notified on 23 October 2025 with submissions closing on 21 November 2025. Two submissions were received with details as follows:

Table 2: List of Submissions

No#	Name	Submission Points Raised	Status of Submission
1	Jen Shieff	- Supports the replacement of the amenity tree with a large grade Quercis rubra, being the same species.	- Support - Does not wish to be heard.
2	Ross Baker	- Advises that the tree is recovering and thriving. - Leave the tree to nature to heal.	- Does not support. - Does not wish to be heard.

Pursuant to Section 100(b) of the Act, as neither of the submitters wish to be heard, there is no obligation to hold a hearing.

5 STATUTORY CONSIDERATIONS

Section 104 of the Act outlines the matters that the consent authority must have regard to, subject to Part 2.

Section 104 requires that, subject to Part 2 of RMA, Council must have regard to the following matters;

- a) any actual and potential effects on the environment of allowing the activity; and
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
- (b) any relevant provisions of—
 - (i) a national environmental standard:
 - (ia) a wastewater environmental performance standard:
 - (ib) a stormwater environmental performance standard:
 - (ic) an infrastructure design solution:
 - (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application

Of the above, any actual and potential effects on the environment of allowing the activity and the Taupō District Plan are considered to be the relevant matters for consideration. These matters are discussed in the following sections of this report.

Section 104(2) of RMA allows the Council to disregard any adverse effects on the environment where the plan permits an activity with that effect (the ‘permitted baseline’). It is not considered useful to assess the permitted baseline in this case.

Section 104(3)(b) of RMA requires that if a person has given their written approval to the proposal, the Council cannot consider any adverse effects on that person. Ngāti Tūrangitukua have provided an email which states they do not have any issues with the application. I have considered this as a written approval.

Section 104B provides that the consent may be granted or refused, and, if consent is granted, that conditions may be imposed on the consent under section 108.

6 ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT (Section 104(1)(a))

Context

Section 104(1)(a) of the RMA requires decision makers to have regard to the actual and potential effects of allowing an activity.

Given the application seeks retrospective consent for the unauthorised works already undertaken to the tree, I consider the starting point for considering the adverse effects of the tree removal should be the tree in its original condition, prior to the unauthorised works being undertaken. The Dendrology arborist report submitted with the consent application states that prior to the partial felling of the tree it was in good health, with full, lush foliar cover.

I do not consider it appropriate to consider the current condition of the tree as reason to conclude that the adverse effects from the removal of the tree will be minor or less than minor. The current condition of the tree is the result of unauthorised works undertaken by the applicant which is the

reason for the application to now remove the tree. These unauthorised works should not result in benefits to the applicant.

The consent application limits the effects assessment to the restricted discretionary activity criteria NT-R4 which relate to Rule NT-R1 which addresses works to notable and amenity trees required for repairing damage or preventing further damage caused by disease or a natural event or process. The rule under which consent is sought is Rule NT-2.3 (Discretionary Activity) not Rule NT-R1 (Restricted Discretionary Activity). I consider the assessment criteria to be a useful guide as to the effects of the proposal but note the assessment is not restricted to these criteria given the application is a discretionary activity, instead requiring all actual and potential effects of the activity to be considered.

When having regard to the actual and potential effects of the activity, the arborist report prepared by Mr Adrian Lamont of Dendrology has been relied upon in determining the nature and extent of effects and appropriate outcomes including mitigation measures.

Current Situation and Amenity Values

Amenity Tree #24, a Red Oak (*Quercus rubra*), previously contributed significantly to the amenity values of the area and was visible from land beyond the adjacent site. It is clear that unauthorised works have caused extensive and irreversible damage, resulting in the loss of its original amenity, character, and contribution to the surrounding environment. In its current state, the tree no longer provides the same visual amenity benefits and now appears incongruous amongst the avenue of amenity trees.

Tree Health

As discussed above, Mr Lamont advises that prior to damage occurring, the tree was in good health.

Mr Lamont advises that the current health of the tree must be considered as pruning techniques used can have considerable long-term effects, even if the tree appears healthy in its current state.

Mr Lamont advises that work was not performed with proper pruning techniques, resulting in branch tears and flush cuts that damaged the remaining stem. He also advises that the remaining stem is currently at increased risk of failure due to loss of crown balance and damping effect from branches. There may be a short-term flush of epicormic growth (new shoots from dormant buds), but the tree's appearance will remain unnatural. Long-term, the tree is likely to suffer significant decay through large wounds, increasing the risk of stem failure. Mr Lamont does not recommend leaving the tree with an increased risk of failure.

Proposed Mitigation

Three management options were considered by Mr Lamont. The first option is to leave the tree as it is, but this was not recommended due to poor aesthetics, increased risk of failure, and unnatural growth. The second option is to reduce the stem to the bole (about 3 meters above ground), which could encourage regrowth but is unlikely to succeed due to extensive damage and lack of branch structure. This approach would require indefinite maintenance and would not restore the tree's original stature. The third, and Mr Lamont's recommended option, is to remove and replace the tree. He recommends that planting a large, good-quality specimen of the same species in the same location, with appropriate aftercare, would best mitigate the loss of amenity.

Given the limited and impractical alternatives for restoration, Mr Lamont considers that removal and replacement with a healthy specimen of the same species is the most effective solution. Planting a large, good-quality Red Oak in the same location, supported by appropriate aftercare, will reinstate amenity and landscape values over time. Although the replacement tree will take time to establish, it will ultimately provide a natural and consistent contribution to the streetscape, aligning with the diverse range of tree sizes and species in the surrounding environment.

I concur with the recommendations outlined in Mr Lamont's report and consider these measures to represent the most appropriate and effective response to the loss of amenity values associated with the unauthorised works to Amenity Tree #24. In my view, this approach provides the best long-term solution and outcome given the circumstances.

Consideration of Submissions

One submission opposed removal, suggesting the tree is recovering and should be left to heal naturally. However, no arboriculture evidence was provided to support this claim. In contrast, the expert arborist report advises that retention would result in poor aesthetics, unnatural growth, and ongoing maintenance requirements, with a continued risk of structural failure. The other submission aligns with the approach proposed by Mr Lamont and the applicant.

Summary of Effects

Taking into account the arborist's recommendations, the mitigation offered, and the submissions received, the adverse effects of removing Amenity Tree #24, although more than minor, are considered acceptable. The proposed replacement planting will provide mitigation and reinstate amenity values over time. The full removal of the tree and replacement planting represents the best practicable option to address the adverse effects on amenity values that have already occurred.

7. ANY RELEVANT PROVISIONS (Section 104(1)(b))

The only provisions relevant to the proposal are considered to be those related to the Taupō District Plan.

Taupō District Plan

Strategic Directions

The Strategic Directions are high level, district wide resource management matters that are to be considered for resource consent applications, being: 6.1 - Climate Change, 6.2 - Fresh Water Quality, 6.3 – Land Development, 6.4 - Nationally and Regionally Significant Infrastructure, 6.5 – Natural Environment Values, 6.6 – Tangata Whenua, 6.7 – Taupō Business Distribution and 6.8 – Urban Form and Development.

For this proposal, the Strategic Directions are not of any particular relevance as the proposal is specifically related to the removal of an Amenity Tree. Objectives and policies within the Notable Trees chapter and the General Residential Zone have direct relevance and an assessment is provided below:

Table 3: Assessment of relevant TDP provisions

Provision Reference	Provision	Assessment
Notable Trees chapter		
Objective NT-O2	To identify and provide a level of protection for amenity trees.	Objective NT-O2 seeks to identify and provide a level of protection for amenity trees. The tree has been identified through its listing as an amenity tree in the Taupō District Plan. Protection is provided through the rules and policy provisions. However, due to the works being undertaken without authorisation and not with the degree of care required, the proposal is considered to be contrary to Objective NT-O2.
Policy NT-P4	Maintain the level of amenity provided by amenity trees by ensuring that the effects of any necessary alteration or removal can be mitigated.	The proposal does not maintain the existing level of amenity provided by Amenity Tree # 24 because full removal is proposed resulting in a complete loss of the established amenity values. Prior to the unauthorised works the tree was in good health and there was no reason for the tree to be removed. Planting a large-grade replacement tree of the same species in the same location is proposed as mitigation which will help reinstate amenity over time; however, this tree will not immediately mitigate the level of amenity lost from removal of the existing mature tree. Accordingly, while the proposal includes appropriate mitigation in the circumstances, it does not maintain the level of amenity provided by Amenity Tree # 24 nor does it fully mitigate adverse effects and is therefore considered contrary to Policy NT-P4.
Policy NT-P5	Ensure that the health, vigour and function of amenity trees are not compromised by any development or other activity.	This policy appears to relate to development or other activity that might impact on an amenity tree. Should this interpretation be correct then the policy is not considered to be relevant. If the policy does relate to works to an amenity tree then the health, vigour, and function of Amenity Tree # 24 has been irreversibly compromised by the unauthorised works and the proposal is considered contrary to Policy NT-P5.
Policy NT-P6	Provide for the ongoing care and maintenance of amenity trees.	The proposal involves the removal of an existing amenity tree rather than its ongoing care and maintenance. While the tree is damaged and no longer provides its intended amenity value, removal does not align with the policy's intent to care and maintain for amenity trees. The proposal is contrary to Policy NT-P6.

General Residential Zone chapter		
GRZ-O1	The maintenance and enhancement of the character and amenity of the GRZ.	Amenity Tree # 24 contributed to the amenity of the GRZ and its removal does not maintain or enhance the character of the GRZ despite the mitigation measures offered. The proposal is considered contrary to Objective GRZ-O1.
GRZ-P1	Maintain and enhance the character and amenity of the GRZ by controlling the bulk, location, and nature of activities to ensure activities are consistent with a residential scale of development, including an appropriate density and level of environmental effects.	As per the above assessment the removal of Amenity Tree # 24 does not maintain or enhance the character and amenity of the GRZ, is not considered to be an appropriate activity in the GRZ and the replacement tree does not fully mitigate the adverse effects. The proposal is considered contrary to Policies GRZ-P1 and GRZ-P4.
GRZ-P4	Encourage a wide range of appropriate activities and development within the GRZ while ensuring any adverse effects are avoided, remedied, or mitigated.	

Summary

In summary, the proposal is considered to be contrary to the relevant objectives and policies of the Taupō District Plan.

8 OTHER MATTERS (Section 104(1)(c))

In accordance with Section 104(1)(c), the consent authority can consider any other matter relevant and reasonably necessary to determine the application. In this case there are no other matters considered to be relevant.

9 PART 2 MATTERS

In the decision (*RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316), the Court of Appeal reconfirmed the pre-eminence of Part 2 matters in the consideration of resource consents. The Court, however, found that in those instances where it is clear that a planning document has been competently prepared having regard to Part 2 and contains a coherent set of policies leading toward clear environmental outcomes, consideration of Part 2 is unlikely to assist evaluation of a proposal. Conversely, where a plan has not been prepared in a manner which appropriately reflects Part 2, or the objectives and policies are pulling in different directions, consideration of Part 2 is both appropriate and necessary.

In this case I consider the relevant objectives and policies of the Taupō District Plan have been competently prepared having regard to Part 2 and form a coherent set of policies that lead toward clear environmental outcomes. I have therefore not considered Part 2 in any further detail.

10 CONCLUSION AND RECOMMENDATION

In conclusion, the adverse effects on the environment from the removal of Amenity Tree # 24 will be more than minor and the removal of the tree will be contrary to the relevant objectives and policies of the Taupō District Plan. However, after taking into account the recommendations of the expert arborist report and the submissions received, the removal of the tree and replacement with a healthy specimen of the same species is the most appropriate way to maintain and enhance amenity values and promote the sustainable management of natural and physical resources.

It is recommended that the proposal **to remove Amenity Tree #24** be granted for the following reasons:

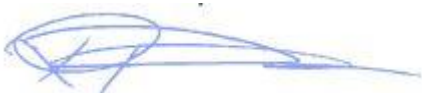
- Undertaking the activity in accordance with the conditions recommended is considered to be the most appropriate way to maintain and enhance amenity values and to promote the sustainable management of natural and physical resources.

Should the Commissioner agree with the recommendation to grant consent, a set of recommended conditions to be imposed are included below. I have adopted the conditions proposed by the applicant subject to some changes to formatting and other minor additions. In respect to condition 5 the replacement tree obligation, rather than only applying for the first 2 years from planting I consider this replacement requirement should apply in perpetuity.

Report prepared by Cam Twigley, Consultant Planner.



Report reviewed, approved and recommendation adopted by Rachel Dimery, Independent Commissioner, under delegated authority pursuant to Section 34 of the Resource Management Act 1991.



RECOMMENDED CONDITIONS

1	General Condition The activity shall be undertaken in accordance with: - a The application prepared by Lewis Consultancy Limited - Joanne Lewis and received by Taupō District Council on 24 September 2025. - b The Arborist Report prepared by Dendrology Limited, titled Red Oak Outside No. 43 Taupahi Road, Turangi and dated 27 November 2024.
2	Replacement Planting The consent holder must, within the next planting season (May to August following the removal of Amenity Tree #24), plant a replacement specimen red oak tree (<i>Quercus rubra</i>) in the road berm outside 43–47 Taupahi Road, Turangi. The replacement tree must: • Have a minimum root ball size of Pb 95 / 45L (or equivalent); • Be a minimum height of 1.8 metres at the time of planting; and • Comply with ANSI A300 Tree Care Standards.
3	Planting Method Replacement planting must be carried out in accordance with arboricultural best practice including: • Staking using flexible webbing; and • Application of well-aged mulch to a depth of 75 mm and a radius of 400 mm around the base of the tree.
4	Maintenance The consent holder must maintain the replacement tree for a minimum period of two (2) years following planting. Maintenance must include: • Adequate watering during dry periods; • Replacement or adjustment of stakes and ties as required; and • Removal of weeds and maintenance of mulch.
5	Replacement Obligation If the replacement tree dies, becomes unhealthy, or is removed at any stage following planting, the consent holder must replace it with a tree of the same species (<i>Quercus rubra</i>) and equivalent specifications (minimum root ball size Pb 95 / 45L and minimum height 1.8 metres) within the next available planting season (May to August).